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IN THE HIGH COURT OF JUDICATURE AT BOMBAY@@
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CIVIL APPELLATE JURISDICTION@@
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APPEAL FROM ORDER NO.574 OF 2006@@
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Praful M. Khandar .. Appellant.
versus
Tulsi Construction & Associates
& Anr. ..Respondents.

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Ms. Deepa Matondkar for the applicant.
Mrs. Rekha Shinde for the respondent no.2.

CORAM : D.G. Karnik J.@@
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Date: 19th August 2006@@
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P.C:-@@
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1. This appeal is directed against an order of the City Civil Court dated 15/06/2006 rejecting the motion of the appellant -plaintiff.

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2. The appellant filed a suit, bearing suit No. 2697/2006, in City Civil Court against the respondent. The only final relief claimed in the suit is the defendant be restrained by an order of permanent injunction for selling, alienating, encumbering, disposing of parting with possession of the suit premises. A motion was taken out in the suit claiming similar interim relief and for appointment of a court receiver. At the hearing of the motion, defendant No.2 gave an undertaking to the Court that he would not part with the possession of the property nor crate any third party interests in the suit property. In view of the undertaking the court has not granted any relief of interim injunction. In the light of undertaking no fault could be found with the decision of the court in as much as the plaintiff is fully protected by the undertaking which is equivalent to

an injunction.

3. As regards the prayer for appointment of receiver, I am of the view that no case is made out the appointment a of Court receiver. Once an undertaking was given that the defendant would not

crate any third party interest, which is final relief claimed in the suit, there is no need for appointment of a court receiver. As the plaintiff has not claimed final relief of possession in the suit he obviously cannot have the present right to dis-possess the defendant which is pre requisit for appointment of a court receiver under Order 40, Rule 1 of the Code of Civil Procedure. In the circumstances the prayer for appointment of court receiver has been rightly rejected. There is no merit in the appeal which is hereby dismissed summarily.

(D.G. KARNIK, J.)@@
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY@@
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CIVIL APPELLATE JURISDICTION@@
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CIVIL APPLICATION NO.802 OF 2006 IN@@
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IN@@
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APPEAL FROM ORDER NO.574 OF 2006@@
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Praful M. Khandar .. Appellant.
versus
Tulsi Construction & Associates
& Anr. ..Respondents.
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Ms. Deepa Matondkar for the applicant.
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CORAM : D.G. Karnik J.@@
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